

**UNITED STATES COURT OF APPEALS  
FOR THE  
SECOND CIRCUIT**

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 17th day of December, two thousand and fourteen.

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545 HALSEY LANE PROPERTIES, LLC,

Plaintiff-Appellee,

**STIPULATION**

- against -

TOWN OF SOUTHAMPTON; TOWN OF SOUTHAMPTON  
PLANNING BOARD; DENNIS FINNERTY; JOHN  
BLANEY; GEORGE SKIDMORE; LARRY TOLER;  
JOHN ZUCCARELLI; JACQUELINE LOFARO;  
PHILIP A. KEITH; MICHELE BERKOSKI, in her  
capacity as a Co-Executor of the Estate of William A.  
Berkoski, Jr.; JENNIFER L. CARUSO, in her capacity  
as a Co-Executor of the Estate of William A. Berkoski,  
Jr.; ROMAN ROTH; THOMAS CONKLIN; WARREN  
TOPPING (a.k.a JAEGER TOPPING); ADAM  
HALSEY; LEE FOSTER; JOHN L. HALSEY;  
LAWRENCE HALSEY; HENRY KRASZEWSKI;  
JAMES PIKE; KATHERINE KAZANAS; ANTHONY  
PIAZZA; ARTHUR LUDLOW; KENNETH TILLOTSON;  
MICHAEL WESNOFSKE; SUSAN FALKOWSKI  
PARRY; and JOHN and JANE DOES Nos. 1-6,  
Defendants-Appellants.

Docket No. 14-3594

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WHEREAS, by Decision and Order dated December 9, 2014, the District Court indicated to Defendants-Appellants that it would entertain a motion for reconsideration of that portion of the Order appealed from which refused to dismiss the complaint as against the Individual Defendants on qualified immunity grounds, provided that defendants-Appellants withdraw the instant notice of appeal without prejudice; and

WHEREAS, Defendants-Appellants intend to file such motion for reconsideration with the District Court,

NOW THEREFORE, the undersigned counsel for the parties stipulate as follows:

1. The above-captioned case is withdrawn without costs or attorneys' fees and pursuant to Local Rule 42.1.

2. Plaintiff-Appellee's motion to dismiss the appeal is withdrawn without prejudice to its right to resubmit the same

3. Appellants may reinstate the case by filing written notice with the Clerk, and serving such notice upon the undersigned appellee, within 14 days of the filing of a decision by the District Court on Appellants' motion for reconsideration therein.

If not timely reinstated, the appeal shall be mandated pursuant to FRAP 41.

**Date: December 17, 2014**



**Attorneys for Appellants**  
**David H. Arntsen**  
**DEVITT SPELLMAN BARRETT**  
**LLP**



**Date: December 18, 2014**

**Attorneys for Appellee**  
**Michael J. Giusto**  
**NEUFELD & O'LEARY**